

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CONVOLVE, INC.

§
§
§
§
§

vs.

CASE NO. 2:08-CV-244-CE

DELL, INC., ET AL

ORDER

Pending before the court is Defendants' motion for spoliation sanctions (Dkt. No. 308).

In accordance with the court's oral ruling on July 20, 2011, the motion is DENIED to the extent that it requests the dismissal of this lawsuit and/or an adverse inference instruction to the jury. Defendants are, however, permitted to present testimony from Mr. Stuart Landow indicating that he destroyed documents that are possibly relevant to this lawsuit. Plaintiff is likewise permitted to present testimony regarding the document retention policy that Dr. Neil Singer implemented with regard to Mr. Landow.

SIGNED this 22nd day of July, 2011.


CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE